

SENTENCING COMMISSION

MINUTES

Committee:	SENTENCING COMMISSION MEETING
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Date:	Wednesday, Oct. 5, 2005	Time:	12:00pm-2:00pm	Place:	State Capitol Complex East Wing, Beehive Room
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Members Present	Sheriff Phil Barney, Senator Gregory Bell, Don Blanchard, Paul Boyden, Judge Jeffrey Burbank, Michele Christiansen, Judge Terry Christiansen, K.S. Cornaby, Scott Daniels, Judge Kimberly Hornak, Rep. Eric Hutchings, Dan Maldonado, Brian Namba, Sy Snarr
Members Excused	Rep. Duane Bourdeaux, Scott Carver, Calvin Clegg, Senator Mike Dmitrich, Marlene Gonzalez, John Hill, Randy Kester, Jim Marchel, Judge Paul Maughan, Judge Gregory K. Orme, Kathy Reimherr, Chief Ed Rhoades, Kirk Torgenson
Staff	Julie Christenson, Mike Haddon, Jo Lynn Kruse, Tom Patterson

Visitors	Derek Byrne, Karin Fojtik, Cathryn Horrocks, Carole Peterson, John Peterson, Mel Wilson, Rep. LaVar Christensen
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Agenda Item:	Welcome and Approval of Minutes
Notes:	Kay Cornaby welcomed everyone and called the meeting to order. Senator Bell made the motion to approve the September minutes. Michele Christiansen seconded the motion and it passed unanimously . Kay Cornaby introduced visitors Mel Wilson (Davis County Attorney), Derek Byrne (Fiscal Analyst), Rep. LaVar Christensen, Karin Fojtik (U.S. Attorney), Cathryn Horrocks, Carole Peterson and John Peterson.

Agenda Item:	Prohibition of Expungement, Sentence Reductions Pending Unpaid Restitution
Notes:	Mel Wilson introduced draft legislation to amend the existing statute on prohibiting the court from granting reductions in sentence and expungements of criminal convictions until “court ordered restitution” has been paid in full. This legislation is proposed to restrict an individual who has been convicted from getting an expungement of their criminal record if there remains outstanding any judgment or court ordered restitution in full or in part. This legislation is an effort in behalf of the Victims’ Council to try and give some added emphasis to payment of restitution. The other part of the bill deals with a reduction in the degree of sentence under section 76-3-402, provision in the code that allows the sentencing judge to enter a sentence at the next lower category of offense, depending upon a number of factors if the judge feels it appropriate. Discussion ensued regarding the definition of complete restitution and court ordered restitution, also regarding whether or not these issues are best settled in civil court or criminal court, and finally what would happen if a defendant’s financial situation changes and they are able to pay restitution where before they had not. No one had objections with the

	intent of this legislation and it was decided that Senator Bell would include more details in the bill and bring it back to the commission in November for a vote.
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Agenda Item:	Mandatory Minimum Sentencing
Notes:	<p>Cathryn Horrocks gave moving testimony as an adult victim of child sex abuse. She reminded the commission of the toll on victims of crime. Current law places mandatory sentences at 6, 10 and 15 years to life for 3rd, 2nd and 1st degree felonies. While Cathryn concurred that her specific case would not have benefited with the increased penalties, she asked the commission to increase the minimum mandatory sentence for sex offenders to 25 years (Jessica's Law). Commission members had lengthy discussion about the problems associated with minimum-mandatory sentences. Karin Fojtik noted that a current conviction rate for sex abuse cases at trial is 50 percent due to the difficulty of such cases. And to impose a minimum mandatory term on sex offenses would take away any incentive for the defendant to negotiate with prosecutors, opting to take their chances at trial. Brian Namba discussed problems with convicting sex offenders of attempted charges to spare them serving prison time because of their family members requesting treatment versus prison time. Paul Boyden recounted problems encountered when the state legislature in 1994 changed or instituted minimum mandatory sentences. The commission decided it would continue to evaluate but determined it is too close to the session to reach a consensus and appropriately draft a bill.</p>

Agenda Item:	Anomalies Committee Status Report
Notes:	<p>The Anomalies Committee has met twice and has met with Representative Harper. The committee is addressing specific issues that Rep. Harper brought up in interim regarding enhanced penalties. The committee plans to have a report to the interim committee in November after presenting recommendations to the full commission.</p>

Agenda Item:	Misdemeanor Guidelines Status Report
Notes:	<p>CCJJ is planning on creating a misdemeanor guidebook, much like the DUI Sentencing Guidebook. Dr. Derrick Tollefson, from the University of Utah, has just completed a survey of Justice Court and District Court Judges. We plan on using the results from this survey to assist in developing the misdemeanor sentencing guidebook.</p> <p>Tom noted that we are in need of some justice court judges on the misdemeanor guidelines subcommittee. If you are interested or know of someone who could serve on that subcommittee, please contact Tom.</p>

The next meeting is scheduled for Wednesday, November 2, 2005, East Office Bldg. Beehive Room
Minutes prepared by Jo Lynn Kruse - Executive Secretary, CCJJ